STATUS OF THE CLAIMS

Claims 1-21 were originally filed in this patent application. In response to the first office action dated 8/30/05, applicants filed an amendment on 11/30/05 that cancelled claims 12, 13, 17, 18, 20 and 21 and amended claims 1, 4-6, 9-11, 16 and 19. In response to the final office action dated 02/06/2006, an RCE and Amendment were filed on 05/04/2006. In the pending office action, claims 1, 4-6, 9-11, 16 and 19 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 1-11, 14-16 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication 2002/0112102 to Tarui *et al.* (hereinafter "Tarui") in view of U.S. Patent No. 6,330,656 to Bealkowski *et al.* (hereinafter "Bealkowski"). No claim was allowed. In this amendment, claims 1, 4-6, 9-11, 16 and 19 have been amended. Claims 1-11, 14-16 and 19 are currently pending.

REMARKS

Rejection of claims 1, 4-6, 9-11, 16 and 19 were rejected under 35 U.S.C. §112

Claims 1, 4-6, 9-11, 16 and 19 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The language that gave rise to this rejection has been deleted from the claims in the amendments herein, thereby traversing the examiner's rejection under 35 U.S.C. §112, first paragraph.

Rejection of claims 1-11, 14-16 and 19 under 35 U.S.C. §103(a)

The examiner rejected claims 1-11, 14-16 and 19 under 35 U.S.C. §103(a) as being unpatentable over Tarui in view of Bealkowski. In both Tarui and Bealkowski, software within the logical partitions inhibit the dispatch of tasks. Tarui at paragraph [0084] states:

> The partition-control program instructs the OS on the current partition to stop using the I/O adapter (Step 6000). The OS stops using the I/O adapter and disconnects the I/O adapter from itself (Step 6001).

We see from this language in Tarui that the operating system within the current partition stops using the I/O adapter and disconnects the I/O adapter from itself. This language in Tarui teaches away from the claims, which recite a partition manager that inhibits dispatch of tasks to the at least one logical partition. The inhibiting of tasks by software within a logical partition as taught in Tarui does not read on the inhibiting of task to a logical partition by a partition manager executing separately from the logical partition. Tarui requires software in the logical partition to stop using the I/O adapter. Tarui thus teaches away from the claims as amended.

The independent claims have also been amended herein to recite that the partition manager executes separately from the plurality of logical partitions. This is shown clearly in FIGS. 1 and 4 of applicant's disclosure. In the rejection, the examiner states:

> Bealkowski teaches these steps (preventing any new work, completing pending work) can be done by a common operating system (the common operating system on which the logical partitions and their "guest" soft wares [sic] are operated on) or can be done indirectly by "any other appropriate software capable of orchestrating the operation and effecting the devices", for example partitioning program or guest soft wares [sic] (see Bealkowski's column 12 lines 15-25).

In the Response to Arguments section, the examiner reiterates this position by stating:

> Bealkowski teaches the new tasks are inhibited to be generated/dispatched [sic] can be done either by a common operating system or any a [sic] common operating system (the common operating system on which the logical partitions and their "guest" soft wares [sic] are operated on) or can be done indirectly by "any other appropriate software capable of orchestrating the operation and effecting the devices", for example partitioning program or guest soft wares [sic] (see Bealkowski's column 12 lines 15-25).

Both of these passages are identical from the point of the first parenthesis on. Both of these take a sentence from Bealkowski out of context. When the teachings of Bealkowski are considered as a whole, the examiner's position that it would have been obvious based on the teachings of Bealkowski to perform the functions of the operating system in a partition control program is without merit.

The actual language from Bealkowski is found at col. 10 lines 19-24, which reads:

> While this process is described in terms of actions taken by the operating system, these functions can be performed by any other software executing within the partition in question. This would include any appropriate software capable of orchestrating the operation and effecting the devices.

The language quoted above from Bealkowski clearly state the actions taken by the operating system "can be performed by any other software ***executing within the partition in question***." A partition manager that executes separately from the logical partitions is not executing within the partition in question. Thus, the examiner's assertion that it would have been obvious for a partitioning program to perform the functions in Bealkowski is contrary to the express teachings of Bealkowski, that the functions may be performed by any software executing ***within the partition in question***. The functions in Bealkowski require actions on the part of software within the logical partition in question. As a result, it would not have been obvious based on the teachings of Bealkowski to perform these functions in a partition manager that executes separately from the logical partitions, as recited in all of the pending claims.

As stated in Bealkowski at col. 9 line 62 to col. 10 line 4, when a partition decides it no longer requires ownership of a slot, the operating system selects the slot for removal from the partition. The operating system then quiesces the device in the slot to be removed from partition ownership. Bealkowski thus teaches away from a partition manager that executes separately from the logical partitions inhibiting dispatch of tasks to a logical partition.

In both Tarui and Bealkowski, it is the operating system (or other software) within a logical partition that stops using an I/O adapter or slot. In the claims, it is the partition manager that suspends a logical partition by inhibiting dispatch of tasks to the logical partition. Inhibiting tasks to an I/O adapter or slot within a logical partition by software in that logical partition is a much different issue that inhibiting dispatch of tasks to a logical partition by a partition manager that executes separately from the logical partitions. Because only software executing within the partition in question in both Tarui and Bealkowski control dispatch of tasks, these references do not read on the pending claims as amended.

Because neither Tarui nor Bealkowski nor their combination teach or suggest the partition manager executing separately from the plurality of logical partitions and inhibiting dispatch of tasks to a logical partition, all of the pending claims are allowable over the combination of Tarui and Bealkowski.

Conclusion

In summary, none of the cited art, either alone or in combination, teaches, supports, or suggests the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

By /derekpmartin/
Derek P. Martin
Reg. No. 36,595

MARTIN & ASSOCIATES, L.L.C.
P.O. Box 548
Carthage, MO 64836-0548
(417) 358-4700